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April 12, 2024

VIA ECF

Honorable Dale E. Ho
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Steven Dominguez v. City of New York, et al., 21-CV-2302 (DEH)

Your Honor:

I am a Senior Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendants City of New York, Officer Battista, Officer Lynch, Lt. Patrick Lynch, Det. Patrick Graney, and Det. Evan Nielsen. Defendants respectfully submit this application, with the consent of the plaintiff, for an extension *nunc pro tunc* to make a limited motion for summary judgment, from April 8, 2024, to April 29, 2024, with the briefing schedule set forth below. In addition, the parties jointly request an extension of the discovery deadline to complete the deposition of the defendants' expert, which began on April 2, 2024, from April 8, 2024 to May 17, 2024. This is the third request for extension of these deadlines and the second request for extension of the summary judgment deadline; the first request was granted upon consent. The parties also respectfully submit their suggestions regarding a trial date, as set forth below.

Motion for Summary Judgment. Defendants' counsel unfortunately did not properly calendar the deadline for summary judgment motions of April 8. Defendants regret their error and any resulting inconvenience to Court and counsel. Counsel for plaintiff and defendants conferred this week regarding the schedule and plaintiff consented to defendants making a limited motion for summary judgment on the plaintiffs' claim for municipal liability under *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978). Such a motion could serve to clarify the issues to be tried, focus the evidence at trial, and avoid potentially unnecessary briefing in motions *in limine* and pursuant to Fed. R. Civ. P. 50.

Should the Court grant defendants' request to make their motion to dismiss the *Monell* claim, the parties request the following briefing schedule:

- Deadline for submission of defendants' motion: April 29, 2024.
- Deadline for plaintiff's opposition: May 31, 2024.
- Deadline for defendants: Reply: June 7, 2024.

Expert Discovery Deadline. The parties also respectfully request an extension of the discovery deadline to complete the deposition of the defendants' expert witness until May 17, 2024. Although the additional deposition time is limited to one hour, the extension to mid-May is required due to the Passover holiday. (The additional deposition time is required because of the production during the deposition of the draft expert report that the Court ordered to be produced in light of certain testimony at the deposition.)

Trial Date. In addition, the parties have conferred regarding a potential trial date and respectfully request that the Court set a trial date convenient for the Court in the summer or fall of 2024. The parties expect a trial of up to one week. After an available date is proposed by the Court, the parties would need to confirm any proposed trial date with the several parties as well as any non-party witnesses expected to be needed for trial.

We thank the Court for its consideration of this matter.

Sincerely,

cc: **VIA ECF**

Brian Bromberg, Esq.
Evan Brustein, Esq.
Attorneys for Plaintiff

Alan Scheiner /s/
Alan Scheiner
Senior Counsel

Application **GRANTED**.

The expert discovery deadline is extended to **May 17, 2024**. The parties' proposed summary judgment briefing schedule is adopted.

The trial in this action will be placed on the Court's August 2024 trial-ready calendar. The jury trial will begin on **August 12, 2024, at 9:30 a.m. ET** or the Court's first available date thereafter. The parties shall be ready to proceed on twenty-four hours' notice on or after August 12, 2024. The Court will hold a final pretrial conference in this case on **July 30, 2024, at 10:00 a.m. ET**. Both the final pretrial conference and trial will be held in Courtroom 905 of the United States District Court for the Southern District of New York, 40 Foley Square, New York, NY 10007.

The parties are directed to submit the following materials no later than **July 15, 2024**: (1) the joint pretrial order under Rule 5 of the Court's Individual Rules of Practice in Civil Cases; (2) other submissions permitted or required under Rule 5, including motions addressing any evidentiary issues or matters to be resolved in limine, exhibits lists, and proposed voir dire questions; (3) a proposed brief, mutually acceptable description of the case, to be read to the venire; and (4) a proposed brief, mutually acceptable overview of the applicable law, to be read to the jury as part of the Court's initial instructions prior to opening statements.

The Clerk of Court is respectfully requested to close ECF No. 133.

SO ORDERED.



Dale E. Ho
United States District Judge
Dated: April 15, 2024
New York, New York